

## PUBLIC HEALTH SERVICE ACT

[As Amended Through P.L. 112-240, Enacted January 2, 2013]

【Currency: This publication is a compilation of the text of title XVI of Chapter 373 of the 78th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

【References in brackets 【】 are to title 42, United States Code】

### TITLE XVI—HEALTH RESOURCES DEVELOPMENT

#### PART A—LOANS AND LOAN GUARANTEES

##### AUTHORITY FOR LOANS AND LOAN GUARANTEES

SEC. 1601. 【300q】 (a)(1) The Secretary, during the period ending September 30, 1982, may, in accordance with this part, make loans from the fund established under section 1602(d) to any public or nonprofit private entity for projects for—

(A) the discontinuance of unneeded hospital services or facilities;

(B) the conversion of unneeded hospital services and facilities to needed health services and medical facilities, including outpatient medical facilities and facilities for long-term care;

(C) the renovation and modernization of medical facilities, particularly projects for the prevention or elimination of safety hazards, projects to avoid noncompliance with licensure or accreditation standards, or projects to replace obsolete facilities;

(D) the construction of new outpatient medical facilities; and

(E) the construction of new inpatient medical facilities in areas which have experienced (as determined by the Secretary) recent rapid population growth.

(2)(A) The Secretary, during the period ending September 30, 1982, may, in accordance with this part, guarantee to—

(i) non-Federal lenders for their loans to public and nonprofit private entities for medical facilities projects described in paragraph (1), and

(ii) the Federal Financing Bank for its loans to public and nonprofit private entities for such projects,

payment of principal and interest on such loans.

(B) In the case of a guarantee of any loan to a public or nonprofit private entity under subparagraph (A)(i) which is located in

an urban or rural poverty area, the Secretary may pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by not more than one-half the net effective interest rate otherwise payable on such loan if the Secretary finds that without such assistance the project could not be undertaken.

(b) The principal amount of a loan directly made or guaranteed under subsection (a) for a medical facilities project, when added to any other assistance provided such project under part B, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under part B, may cover up to 100 per centum of such costs.

(c) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

(d) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

#### GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

SEC. 1602. [300q-2] (a)(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any

person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

(b)(1) The Secretary may not approve a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus any interest subsidy made in accordance with section 1601(a)(2)(B) with respect to a loan made for a project located in an urban or rural poverty area, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c)(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 302 of the Federal National Mortgage Association Charter Act or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3)(A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan,

are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A)—

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d).

(5) If any loan to a public entity under this part is sold and guaranteed by the Secretary under this subsection, interest paid on such loan after its sale and any interest subsidy paid, under paragraph (3)(A)(ii), by the Secretary with respect to such loan which is received by the purchaser of the loan (or the purchaser's successor in interest) shall be included in the gross income of the purchaser or successor for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(d)(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

(A) to enable him to make loans under this part,

(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

(C) for payment of interest under section 1601(a)(2)(B) on loans guaranteed under this part,

(D) for repurchase of loans under subsection (c)(3)(B),

(E) for payment of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f).

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary—

(A) to make payments of interest under section 1601(a)(2)(B),

(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

(D) to repurchase loans under subsection (c)(3)(B),

(E) to make payments of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f),

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e)(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 626 shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30,

1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(f)(1) The Secretary may take such action as may be necessary to prevent a default on a loan made or guaranteed under this part or under title VI, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a medical facility shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

(2) The Secretary may take such action, consistent with State law respecting foreclosure procedures, as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this part or under title VI, including selling real property pledged as security for such a loan or loan guarantee and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.

#### PART B—PROJECT GRANTS

##### PROJECT GRANTS

SEC. 1610. [300r] (a)(1)(A) The Secretary may make grants for construction or modernization projects designed to—

(i) eliminate or prevent in medical facilities imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or

(ii) avoid noncompliance by medical facilities with State or voluntary licensure or accreditation standards.

(B) A grant under subparagraph (A) may only be made to—

(i) a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for any medical facility owned or operated by the State or political subdivision; and

(ii) a nonprofit private entity for any medical facility owned or operated by the entity but only if the Secretary determines—

(I) the level of community service provided by the facility and the proportion of its patients who are unable to pay for services rendered in the facility is similar to such level and proportion in a medical facility of a State or political subdivision, and

(II) that without a grant under subparagraph (A) there would be a disruption of the provision of health care to low-income individuals.

(2) The amount of any grant under paragraph (1) may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the

Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(3) There are authorized to be appropriated for grants under paragraph (1) \$40,000,000 for the fiscal year ending September 30, 1980, \$50,000,000 for the fiscal year ending September 30, 1981, and \$50,000,000 for the fiscal year ending September 30, 1982. Funds available for obligation under this subsection (as in effect before the date of the enactment of the Health Planning and Resources Development Amendments of 1979) in the fiscal year ending September 30, 1979, shall remain available for obligation under this subsection in the succeeding fiscal year.

(b)(1) The Secretary may make grants to public and nonprofit private entities for projects for (A) construction or modernization of outpatient medical facilities which are located apart from hospitals and which will provide services for medically underserved populations, and (B) conversion of existing facilities into outpatient medical facilities or facilities for long-term care to provide services for such populations.

(2) The amount of any grant under paragraph (1) may not exceed 80 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(3) There are authorized to be appropriated for grants under paragraph (1) \$15,000,000 for the fiscal year ending September 30, 1981, and \$15,000,000 for the fiscal year ending September 30, 1982.

## PART C—GENERAL PROVISIONS

### GENERAL REGULATIONS

SEC. 1620. [300s] The Secretary shall by regulation—

(1) prescribe the manner in which he shall determine the priority among projects for which assistance is available under part A or B, based on the relative need of different areas for such projects and giving special consideration—

(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehen-

sive health care, including outpatient and preventive care as well as hospitalization;

(2) prescribe for medical facilities projects assisted under part A or B general standards of construction, modernization, and equipment, which standards may vary on the basis of the class of facilities and their location; and

(3) prescribe the general manner in which any entity which receives financial assistance under part A or B or has received financial assistance under part A or B or title VI shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (3) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

#### APPLICATIONS

SEC. 1621. [300s-1] (a) No loan, loan guarantee, or grant may be made under part A or B for a medical facilities project unless an application for such project has been submitted to and approved by the Secretary. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b)(1) An application for a medical facilities project shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall, except as provided in paragraph (2), set forth—

(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) in the case of an application for a grant, assurances satisfactory to the Secretary that (i) the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for, and (ii) in the case of a project to construct a new medical facility, it would be inappropriate to convert an existing medical facility to provide the services to be provided through the new medical facility;

(C) in the case of a project for the discontinuance of a service or facility or the conversion of a service or a facility, an evaluation of the impact of such discontinuance or conversion on the provision of health care in the health service area in which such service was provided or facility located;

(D) a description of the site of such project;

(E) plans and specifications therefor which meet the requirements of the regulations prescribed under section 1620(2);

(F) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(G) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(H) the type of assistance being sought under part A or B for the project;

(I) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(J) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(K) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2)(A) The Secretary may waive—

(i) the requirements of subparagraph (D) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 1620(2), and

(ii) the requirement of subparagraph (E) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B) of this paragraph.

(B) A project referred to in subparagraph (A) is a project—

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically under-

served population as defined in section 1624 or as designated by a health systems agency, and

(ii) for which the applicant seeks a loan under part A the principal amount of which does not exceed \$20,000.

## RECOVERY

SEC. 1622. [300s-1a] (a) If any facility with respect to which funds have been paid under this title shall, at any time within 20 years after the completion of construction or modernization—

(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 1621 or 1642 or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or

(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

(2)(A) After the expiration of—

(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

(ii) thirty days after the date of enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based

on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),

(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

(A) has established an irrevocable trust—

(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 1621(b)(1)(K) or the amount, determined under subsection (c), that the United States is entitled to recover, and

(ii) which will only be used by the entity to provide the care required by clause (ii) of section 1621(b)(1)(K); and

(B) will meet the obligation of the facility under clause (i) of section 1621(b)(1)(K).

(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this title.

#### CONTROL OF OPERATIONS

SEC. 1623. **[300s-2]** Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer, or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

#### DEFINITIONS

SEC. 1624. **[300s-3]** Except as provided in section 1642(e), for purposes of this title—

(1) The term “hospital” includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses’ home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional<sup>1</sup> personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(2) The term “public health center” means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(3) The term “nonprofit” as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term “outpatient medical facility” means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(A) which is operated in connection with a hospital;

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties and which provides to its patients a reasonably full range of diagnostic and treatment services.

(5) The term “rehabilitation facility” means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(6) The term “facility for long-term care” means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services—

<sup>1</sup> So in law. Probably should be “professional”.

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(7) The term “construction” means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects’ fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land

(8) The term “cost” as applied to construction modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part D, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(9) The term “modernization” includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(10) The term “title,”<sup>2</sup> when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years’ undisturbed use and possession for the purposes of construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this title, or (B) the term of repayment of a loan made or guaranteed under this title in the case of a project assisted by a loan or loan guarantee.

(11) The term “medical facility” means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(12) The term “State Agency” means the State health planning and development agency of a State designated under title XV.

(13) The term “urban or rural poverty area” means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sen-

<sup>2</sup>So in law. The comma probably should follow the ending quotations.

tence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is—

(A) not more than the percentage of the total population of the United States with incomes below the poverty level (as so defined) plus five per centum, and

(B) not less than such percentage minus five per centum.

(14) The term “medically underserved population” means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities.

#### FINANCIAL STATEMENTS; RECORDS AND AUDIT

SEC. 1625. [300s-4] (a) In the case of any facility for which an allotment payment, grant, loan, or loan guarantee has been made under this title, the applicant for such payment, grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

(b)(1) Each entity receiving Federal assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1).

(c) Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility constructed or modernized with such assistance, and

(2) the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.

#### TECHNICAL ASSISTANCE

SEC. 1626. [300s-5] The Secretary shall provide (either through the Department of Health, Education, and Welfare or by

contract) all necessary technical and other nonfinancial assistance to any public or other entity which is eligible to apply for assistance under this title to assist such entity in developing applications to be submitted to the Secretary under section 1621 or 1642. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this title.

## ENFORCEMENT OF ASSURANCES

SEC. 1627. [300s-6] The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this title or which has received financial assistance under title VI or this title, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall report such noncompliance to the health systems agency for the health service area in which such entity is located and the State health planning and development agency of the State in which the entity is located and shall take any action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within six months after the date on which the complaint was filed with the Secretary.

## PART D—AREA HEALTH SERVICES DEVELOPMENT FUNDS

## DEVELOPMENT GRANTS FOR AREA HEALTH SERVICES DEVELOPMENT FUNDS

SEC. 1640. [300t] (a) The Secretary shall make in each fiscal year a grant to each health systems agency—

(1) with which there is in effect a designation agreement under section 1515(c),

(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

(3) which, as determined under the review made under section 1535(c), is organized and operated in the manner prescribed by section 1512(b) and is performing its functions under section 1513 in a manner satisfactory to the Secretary, to enable the agency to establish and maintain an Area Health Services Development Fund from which it may make grants and enter into contracts in accordance with section 1513(c)(3).

(b)(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

(2) The amount of any grant under subsection (a) to a health systems agency for any fiscal year may not exceed the product of \$1 and the population of the health service area for which such agency is designated.

(c) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1975, \$75,000,000 for the fiscal year ending June 30, 1976, \$120,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1981, and \$30,000,000 for the fiscal year ending September 30, 1982.

PART E—PROGRAM TO ASSIST AND ENCOURAGE THE VOLUNTARY DISCONTINUANCE OF UNNEEDED HOSPITAL SERVICES AND THE CONVERSION OF UNNEEDED HOSPITAL SERVICES TO OTHER HEALTH SERVICES NEEDED BY THE COMMUNITY

ESTABLISHMENT OF PROGRAM

SEC. 1641. [300t-11] The Secretary shall, by April 1, 1980, establish a program under which—

(1) grants and technical assistance may be provided to hospitals in operation on the date of the enactment of this part (A) for the discontinuance of unneeded hospital services, and (B) for the conversion of unneeded hospital services to other health services needed by the community; and

(2) grants may be provided to State Agencies designated under section 1521(b)(3) for reducing excesses in resources and facilities of hospitals.

GRANTS FOR DISCONTINUANCE AND CONVERSION

SEC. 1642. [300t-12] (a)(1) A grant to a hospital under the program shall be subject to such terms and conditions as the Secretary may by regulation prescribe to assure that the grant is used for the purpose for which it was made.

(2) The amount of any such grant shall be determined by the Secretary. The recipient of such a grant may use the grant—

(A) in the case of a grantee which discontinues the provision of all hospital services or all inpatient hospital services or an identifiable part of a hospital facility which provides inpatient hospital services, for the liquidation of the outstanding debt on the facilities of the grantee used for the provision of the services or for the liquidation of the outstanding debt of the grantee on such identifiable part;

(B) in the case of a grantee which is discontinuing the provision of an inpatient hospital service converts or proposes to convert an identifiable part of a hospital facility used in the provision of the discontinued service to the delivery of other health services, for the planning, development (including con-

struction and acquisition of equipment), and delivery of the health service;

(C) to provide reasonable termination pay for personnel of the grantee who will lose employment because of the discontinuance of hospital services made by the grantee, retraining of such personnel, assisting such personnel in securing employment, and other costs of implementing arrangements described in subsection (c); and

(D) for such other costs which the Secretary determines may need to be incurred by the grantee in discontinuing hospital services.

(b)(1) No grant may be made to a hospital unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form and submitted in such manner as the Secretary may prescribe and shall include—

(A) a description of each service to be discontinued and, if a part of a hospital is to be discontinued or converted to another use in connection with such discontinuance, a description of such part;

(B) an evaluation of the impact of such discontinuance and conversion on the provision of health care in the health service area in which such service is provided;

(C) an estimate of the change in the applicant's costs which will result from such discontinuance and conversion; and

(D) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(E) such other information as the Secretary may require.

(2)(A) The health systems agency for the health service area in which is located a hospital applying for a grant under the program shall (i) in making the review of the applicant's application under section 1513(e), determine the need for each service or part proposed to be discontinued by the applicant, (ii) in the case of an application for the conversion of a facility, determine the need for each service which will be provided as a result of a conversion, and (iii) make a recommendation to the State Agency for the State in which the applicant is located respecting approval by the Secretary of the applicant's application.

(B) A State Agency which has received a recommendation from a health systems agency under subparagraph (A) respecting an application shall, after consideration of such recommendation, make a recommendation to the Secretary respecting the approval by the Secretary of the application. A State Agency's recommendation under this subparagraph respecting the approval of an application (i) shall be based upon (I) the need for each service or part proposed to be discontinued by the applicant, (II) in the case of an ap-

plication for the conversion of a facility, the need for each service which will be provided as a result of the conversion, and (III) such other criteria as the Secretary may prescribe, and (ii) shall be accompanied by the health systems agency's recommendation made with respect to the approval of the application.

(C) In determining, under subparagraphs (A) and (B), the need for the service (or services) or part proposed to be discontinued or converted by an applicant for a grant, a health systems agency and State Agency shall give special consideration to the unmet needs and existing access patterns of urban or rural poverty populations.

(3)(A) The Secretary may not approve an application of a hospital for a grant—

(i) if a State Agency recommended that the application not be approved, or

(ii) if the Secretary is unable to determine that the cost of providing inpatient health services in the health service area in which the applicant is located will be less than if the inpatient health services proposed to be discontinued were not discontinued.

(B) In considering applications of hospitals for grants the Secretary shall consider the recommendations of health systems agencies and State Agencies and shall give special consideration to applications (i) which will assist health systems agencies and State Agencies to meet the goals in their health systems plans and State health plans, or (ii) which will result in the greatest reduction in hospital costs within a health service area.

(c)(1) Except as provided in paragraph (3), the Secretary may not approve an application submitted under subsection (b) unless the Secretary of Labor has certified that fair and equitable arrangements have been made to protect the interests of employees affected by the discontinuance of services against a worsening of their positions with respect to their employment, including arrangements to preserve the rights of employees under collective-bargaining agreements, continuation of collective-bargaining rights consistent with the provisions of the National Labor Relations Act, reassignment of affected employees to other jobs, retraining programs, protecting pension, health benefits, and other fringe benefits of affected employees, and arranging adequate severance pay, if necessary.

(2) The Secretary of Labor shall by regulation prescribe guidelines for arrangements for the protection of the interests of employees affected by the discontinuance of hospital services. The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare in the promulgation of such guidelines. Such guidelines shall first be promulgated not later than the promulgation of regulations by the Secretary for the administration of the grants authorized by section 1641.

(3) The Secretary of Labor shall review each application submitted under subsection (b) to determine if the arrangements described in paragraph (1) have been made and if they are satisfactory and shall notify the Secretary respecting his determination. Such review shall be completed within—

(A) ninety days from the date of the receipt of the application from the Secretary of Health, Education, and Welfare, or

(B) one hundred and twenty days from such date if the Secretary of Labor has by regulation prescribed the circumstances under which the review will require at least one hundred and twenty days.

If within the applicable period, the Secretary of Labor does not notify the Secretary of Health, Education, and Welfare respecting his determination, the Secretary of Health, Education, and Welfare shall review the application to determine if the applicant has made the arrangements described in paragraph (1) and if such arrangements are satisfactory. The Secretary may not approve the application unless he determines that such arrangements have been made and that they are satisfactory.

(d) The records and audits requirements of section 705 shall apply with respect to grants made under subsection (a).

(e) For purposes of this part, the term “hospital” means, with respect to any fiscal year, an institution (including a distinct part of an institution participating in the programs established under title XVIII of the Social Security Act)—

(1) which satisfies paragraphs (1) and (7) of section 1861(e) of such Act,

(2) imposes charges or accepts payments for services provided to patients, and

(3) the average duration of a patient’s stay in which was thirty days or less in the preceding fiscal year,

but such term does not include a Federal hospital or a psychiatric hospital (as described in section 1861(f)(1) of the Social Security Act).

#### GRANTS TO STATES FOR REDUCTION OF EXCESS HOSPITAL CAPACITY

SEC. 1643. [300t–13] (a) For the purpose of demonstrating the effectiveness of various means for reducing excesses in resources and facilities of hospitals (referred to in this section as “excess hospital capacity”), the Secretary may make grants to State Agencies designated under section 1521(b)(3) to assist such Agencies in—

(1) identifying (by geographic region or by health service) excess hospital capacity,

(2) developing programs to inform the public of the costs associated with excess hospital capacity,

(3) developing programs to reduce excess hospital capacity in a manner which will produce the greatest savings in the cost of health care delivery,

(4) developing means to overcome barriers to the reduction of excess hospital capacity,

(5) in planning, evaluating, and carrying out programs to decertify health care facilities providing health services that are not appropriate, and

(6) any other activity related to the reduction of excess hospital capacity.

(b) Grants under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1644. ~~300t-14~~ To make payments under grants under sections 1642 and 1643 there are authorized to be appropriated \$30,000,000 for the fiscal year ending September 30, 1980, \$50,000,000 for the fiscal year ending September 30, 1981, and \$75,000,000 for the fiscal year ending September 30, 1982, except that in any fiscal year not more than 10 percent of the amount appropriated under this section may be obligated for grants under section 1643.